



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

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R. 05-10-030

(Filed October 27, 2005)

Order Instituting Rulemaking Concerning Relationship
Between California Energy Utilities And Their Holding
Companies And Non-Regulated Affiliates.

**AMENDED REQUEST OF THE GREENLINING INSTITUTE FOR AN AWARD OF
COMPENSATION FOR CONTRIBUTIONS TO D. 06-12-029**

Robert Gnaizda
Thalia N.C. Gonzalez
THE GREENLINING INSTITUTE
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February 22, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Relationship
Between California Energy Utilities And Their Holding
Companies And Non-Regulated Affiliates.

R. 05-10-030

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**AMENDED REQUEST OF THE GREENLINING INSTITUTE FOR AN AWARD OF
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Pursuant to Public Utilities Code (“PU Code”) § 1804(c) and Commission Rules 17.1 through 17.4, the Greenlining Institute (“Greenlining”) respectfully requests to amended the amount of the award of compensation for its substantial contribution to Decision 06-12-029 from \$120,784.95 to \$106,488.95.

As indicated in its timely filed February 20, 2007 request for compensation, Greenlining did not have access to full and accurate records of the hours expended by expert, Mr. Michael Phillips and legal intern, Mr. Samuel Kang. As a result, Greenlining provided the Commission with a good faith estimation of their time and the likewise good faith estimation of \$120,784.95. Greenlining has since received records from Mr. Phillips and Mr. Kang of the hours they contributed to this proceeding and requests that the Commission award Greenlining compensation in the amount of \$106,488.95.

Given its unique and efficient role in this proceeding and that no other party played as major of a role, Greenlining believes that full compensation is appropriate.

I. GREENLINING'S REQUEST FOR COMPENSATION IS REASONABLE

Greenlining is requesting compensation in the amount of \$106,488.95 for the time it reasonably devoted to this proceeding, as well as for the expenses it incurred for its participation. Given the substantial contributions (made in a productive, efficient, and non-duplicative manner) Greenlining made to the proceeding, full compensation is appropriate.¹

Below is a summary table and explanation of hour's claimed and hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by Greenlining's attorney, staff and expert is provided in Exhibits A through Exhibit E to this filing. As the data below indicates, Greenlining's work was performed very efficiently. All of the work was delegated to the appropriate members of Greenlining's legal team as described below.

Attorney and Advocate Fees	Year	Hours	Rate	Total
Robert Gnaizda	2006	168.37	\$505.00	\$85,026.85
Chris Vaeth	2006	41.25	\$180.00	\$7,425.00
Samuel Kang	2006	21	\$180.00	\$3780

Subtotal: **\$96,231.85**

Expert	Year	Hours	Rate	Total
Michael Phillips	2006	24.8	\$380.00	\$9424
John Gamboa	2006	1.9	\$380.00	\$722.00

Subtotal: **\$10,146.00**

¹ See D. 04-08-025 (Even where the contributions were not wholly adopted by the decision, these contributions were beneficial to the Commission.)

Direct Expenses	Total
Photocopying (945 @ .10 per copy)	\$94.50
Postage costs (overnight services)	\$16.60

Subtotal: \$111.10

TOTAL: \$106,488.95

The daily listings of the specific tasks performed by Greenlining’s General Counsel, Robert Gnaizda, in connection with this proceeding are attached and labeled as *Exhibit A*. Mr. Gnaizda provided his expertise and policy input on all communications with the Commission and with other parties.

The daily listings of specific tasks performed by Greenlining expert, John Gamboa, in connection with this proceeding are attached and labeled as *Exhibit B*.

The daily listings of specific tasks performed by Greenlining’s Director of Special Projects, Chris Vaeth, in connection with this proceeding are attached and labeled as *Exhibit C*.

The daily listings of specific tasks performed by Greenlining expert, Michael Phillips, in connection with this proceeding are attached and labeled as *Exhibit D*.

The daily listings of specific tasks performed by Greenlining’s Legal Intern, Samuel Kang, in connection with this proceeding are attached and labeled as *Exhibit E*.

The work done by Greenlining’s attorneys and staff and expert, as a team and as individuals, demonstrates that the hours claimed are reasonable, particularly given the scope of this proceeding.

II. GREENLINING'S REASONABLE AND BELOW-MARKET HOURLY RATES

The reasonableness of the proposed hourly rates for Greenlining's attorney, staff and experts are supported by various factors including market rates, their experience, their areas of expertise, and their previous work before this Commission.

Greenlining submits to the Commission of equal and related importance to the nature and reasonableness of Greenlining's proposed hours is that the hourly rates for experienced attorneys and experts, as allowed by this Commission, grossly understate fair market value.² While Greenlining's request for the hourly rates of utility attorneys in proceeding, R.06-08-019 was denied and the Commission did not enter into evidence the market rate of attorneys, in the on-going Edison fraud case (I.06-06-014) through discovery it has been determined that senior attorneys, with far less experience than the general counsel of Greenlining Institute, are compensated at up to \$755 per hour. Furthermore, attorneys with only one year of experience receive a rate of \$325 per hour (or more than twice the rates this Commission allows).

Similarly, as the Edison fraud case has also revealed, Edison's experts with far less experience than Mr. Phillips have received compensation ranging from \$400 per hour to \$600 per hour.

While, Greenlining does not seek any additional compensation based on the underestimation of the fair market rate of attorneys and experts, it does wish to call this issue to the attention of the Commission. Greenlining submits the issue of fair market value and compensation is particularly important to this proceeding. Therefore, Greenlining's request for compensation, should any of the parties or the Commission believe that some or all of Greenlining's hours should be disallowed, should be reviewed within this context.

² D.07-01-009

A. ROBERT GNAIZDA'S HOURLY RATES

Robert Gnaizda is Greenlining's General Counsel and Policy Director, and has been for 13 years. Mr. Gnaizda graduated from Yale Law School in 1960 and was admitted to the New York State Bar that same year. Mr. Gnaizda's litigation experience commenced in 1961, and he has been representing underserved communities before the Commission since 1971.

Based on Mr. Gnaizda's significant litigation and Commission experience, the Commission set Mr. Gnaizda's 2006 hourly rate at a maximum of \$505 in D. 07-01-009. Given his extensive experience, Greenlining submits these hourly rates are significantly low. Attorneys with 35 or more years of experience are regularly awarded hourly rates ranging from \$500 to \$550 for work in 2001 and 2002.³ Based on his experience and contributions, Greenlining's request for the maximum allowed 2006 rate of \$505 for Mr. Gnaizda's participation in this proceeding is quite reasonable.

B. JOHN GAMBOA'S HOURLY RATE

John Gamboa is Executive Director of the Greenlining Institute and has been such since 1994. While Executive Director of Latino Issues Forum from 1987-1989, he became involved in corporate executive compensation issues. Mr. Gamboa has written articles on executive compensation and its excesses, as well as been an advocate for more than 10 years relating to the issues raised and resolved in this proceeding. Based on his extensive experience, his hourly rate is \$380, the maximum allowable under the PUC rules and decision, Greenlining's request for the

³ Attorneys are also awarded substantially higher rates, including one attorney who was awarded a 2001 hourly rate of \$1,000 plus a 50% multiplier. See Pearl Declaration at ¶8, citing *Baskins v. Culligan*, Los Angeles Superior Court No. BC 177201, Order filed August 29, 2001. See also Pearl Declaration included as Attachment 6 to Greenlining's request for compensation in I. 02-04-026 at ¶8.

maximum allowed 2006 rate of \$380 for Mr. Gamboa's participation in this proceeding is quite reasonable.

C. MICHAEL PHILLIPS'S HOURLY RATE

Mr. Michael Phillips was the only major expert employed by Greenlining in this proceeding. He was Greenlining's expert in the prior PG&E and Edison rate cases, relating to executive compensation.⁴ These are the very same cases cited by the Commission in D.06-12-029 and that led to the adoption of the Affiliate Transaction Rules and amendments to GO 77-L. Mr. Phillips was formerly a vice-president at the Bank of California and an executive at the Bank of America. He is also the author of many business books, including "Gods of Commerce" and "Honest Business".

Mr. Phillips, based on his acknowledged expertise, helped develop the successful changes in executive compensation at PG&E and his opinions helped to formulate the model for the present GO 77-L. Mr. Phillips assisted Greenlining throughout this proceeding and provided a declaration on full disclosure of holding and operating company executive compensation (see attachment to Greenlining's Opening Comments filed August 7, 2006).

Mr. Phillips is currently out of town and will provide precise documentation of his hours within one week. Greenlining will timely file an amendment to its request for compensation by February 27, 2007. As indicated above, the maximum number of hours Mr. Phillips dedicated to this proceeding is 25. Based on his extensive experience, his hourly rate is \$380, the maximum allowable under the PUC rules and decision.⁵

⁴ D. 06-12-029, D.04-05-055

⁵ Mr. Phillips professional experience began in the late 1960's and he was first employed as an executive compensation expert in insurance company cases by Greenlining in 1988.

D. CHRIS VAETH'S HOURLY RATE

Mr. Chris Vaeth holds a B.S. from Cornell University, an M.T.S. (Masters of Theological Studies) from Harvard University, and a Certificate in Non-Profit Management from Columbia University. Mr. Vaeth has 9 years of policy experience, including work with the Open Society Institute and in the Clinton White House.

Based on his experience and contributions to this proceeding, a 2006 rate of \$180 for Mr. Vaeth is quite reasonable and wholly consistent with Commission precedent and market rates.

E. SAMUEL KANG'S HOURLY RATE

Mr. Samel Kang is Greenlining's Legal Intern. Mr. Kang holds an A.B. from Occidental College, and is a third-year law student at the University of San Francisco School of Law. Mr. Kang has worked in a legal capacity for a combined 2 years with the Greenlining Institute, Public Advocates, the California Public Utilities Commission, and the Asian American Legal Defense and Education Fund. Mr. Kang is a graduate of the *Coro* Fellows Program and the Greenlining Academy, and completed a legal internship at the CPUC's Legal Division in 2006.

Based on his experience and contributions, a rate of \$180 for Mr. Kang is quite reasonable and wholly consistent with Commission precedent and market rates.

F. GREENLINING'S REASONABLE DIRECT EXPENSES

The expenses totaling \$101.10 and listed in the above summary table are reasonable and necessary for Greenlining's substantial contribution to this case. These charges cover the cost of Greenlining's photocopying (\$84.50) and postage (\$16.60). Greenlining waives all travel expenses and all other costs incurred in this proceeding.

III. GREENLINING IS ENTITLED TO FULL COMPENSATION TOTALING \$106,488.95 FOR ITS SUBSTANTIAL CONTRIBUTIONS TO D. 06-12-029

Greenlining has met all the requirements of PU Code § 1801 et seq. Greenlining also has satisfied the requirements of achieving customer status, demonstrating financial hardship, and providing all required information in this document. As D.06-12-029 clearly states, Greenlining also made a substantial contribution to this proceeding in a productive and efficient manner and avoided duplication where possible. Even though, the Commission did not wholly adopt all of Greenlining's recommendations its contributions were beneficial to the Commission. Additionally, Greenlining has provided herein a detailed itemization of the costs of participation and has demonstrated the reasonableness of the requested hourly rates. Therefore, Greenlining is entitled to full intervenor compensation in the amount of \$106,488.95.

Dated: February 22, 2007

Respectfully submitted,

/s/ Robert Gnaizda
Robert Gnaizda
The Greenlining Institute

/s/ Thalia N.C. Gonzalez
Thalia N.C. Gonzalez
The Greenlining Institute

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VERIFICATION

I am General Counsel of the Greenlining Institute and am authorized to make this verification on its behalf. The statements in the foregoing document entitled:

**AMENDED REQUEST OF THE GREENLINING INSTITUTE FOR AN AWARD OF
COMPENSATION FOR CONTRIBUTIONS TO D. 06-12-029**

and dated February 22, 2007 are true of my own knowledge, except as to the matters which are therein stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed on February 22, 2007 at Berkeley, California.

By: /s/ Robert Gnaizda
Robert Gnaizda
The Greenlining Institute

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R. 05-10-030

(Filed October 27, 2005)

CERTIFICATE OF SERVICE

I, Thalia N.C. Gonzalez, am 18 years of age or older and a non-party to the within proceeding. I am a resident and citizen of the State of California with the business address at the Greenlining Institute of 1918 University Avenue, Second Floor, Berkeley, CA 94704 and telephone number of 510-926-4002.

On February 22, 2007, I caused the following document:

**AMENDED REQUEST OF THE GREENLINING INSTITUTE FOR AN AWARD OF
COMPENSATION FOR CONTRIBUTIONS TO D. 06-12-029**

to be served upon all interested parties of record in I. 06-06-014 named in the official service list via e-mail to those whose e-mail address is listed in the official service list and via first class mail with postage prepaid or facsimile to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on February 20, 2007.

/s/ Thalia N.C. Gonzalez

Thalia N.C. Gonzalez

Service List for R.05-10-030/D.06-12-029

dgilmore@sempra.com;
douglass@energyattorney.com;
david.vaniderstine@sce.com;
daking@sempra.com;
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mdjoseph@adamsbroadwell.com;
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hym@cpuc.ca.gov;
jef@cpuc.ca.gov;
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pgh@cpuc.ca.gov;
smw@cpuc.ca.gov

Exhibit A

Robert Gnaizda Hours
The Greenlining Institute
1918 University Ave., 2nd Floor
Berkeley, CA 94704

Case: R.05-10-030

Total Hours:

Date	Explanation	Hours
11/03/2005	Meeting Peavy (.1) Review of Holding Co OIR Discussions Chris Vaeth and next steps	2.4
11/07/2005	Meeting Vaeth re research update	.9
11/20/2005	Research re Ex Comp	1.2
12/07/2005	First Draft of Brief	1.4
12/11/2005	Research	1.2
12/12/2005	Second Draft of Brief	1.7
12/13/2005	Research	.6
12/15/2005	Meeting ORA Staff	.2
12/19/2005	Research	.5
01/03/2006	Research and Meeting with Expert Phillips	1.8
01/04/2006	Research	.5
01/10/2006	Research and Meeting Peavy, Arth	.5
01/11/2006	Research, Letter to Commissioners	2.47
01/11/2006	Discussion and meeting with expert Phillips	.8
01/12/2006	Research	1.0
01/17/2006	Research & Second letter to Peevey and Brown	1.9
01/18/2006	Research and review and SEC proposal	1.6
01/22/2006	Research	.8
01/24/2006	Research Expert analyses and meeting expert Phillips	1.5
01/26/2006	Ex Comp – meeting with Kang and Research	.3
01/30/2006	Research	.7
02/08/2006	Meeting Pete Arth & Kang research	1.8
02/13/2006	Research	1.1
02/22/2006	Research & discussions Pete Arth	.8
02/23/2006	Discuss Kang and research	.5
02/28/2006	Research	1.8
03/01/2006	Meeting expert Phillips and Discussion with Kang	.8
03/14/2006	Meeting Kang and update	.2
03/20/2006	Research	1.3

04/10/2006	Research	2.7
04/11/2006	Letter to Peevey and Brown Draft Re Ex Comp	1.1
04/12/2006	Meeting Phillips	.5
04/25/2006	Research Prep for Meeting Commissioner Bohn	1.0
04/26/2006	Meetings Bohn, Peevey, and Phillips	2.2
05/09/2006	Review and Amended Order – Next Steps. Meeting with expert Phillips	1.7
05/10/2006	First Draft of Response	2.8
06/30/2006	Partial Amend Holding Co Decision	1.3
07/03/2006	Discussion Phillips. Read opinion, and develop next steps	2.3
07/05/2006	Case Management – Meeting Kang	.4
07/08/2006	Research and Prep for July 27 Comments	2.3
07/09/2006	Research and Prep for July 27 Comments	1.4
07/10/2006	Research and Prep for Brief	1.8
07/11/2006	Part of First Draft and Brief (2.4)	4.4
07/11/2006	Draft of Phillips Declaration (2.0)	2.0
07/12/2006	Revisions First Draft, Introduction	1.1
07/13/2006	Revisions re part of first draft	1.5
07/16/2006	Research and notes for completion of first draft	2.8
07/17/2006	Draft of part of remedies section	2.5
07/18/2006	Second draft and research	4.6
07/19/2006	Third draft and research, completion of expert Phillips Draft Declaration	7.3
07/20/2006	Revisions Phillips declaration; review of final draft, coalition	1.6
07/24/2006	Research and revisions of final draft	1.2
07/27/2006	Research, new section rules, and review of final draft	2.5
08/03/2006	Research and final draft	1.3
08/07/2006	Final review and filing	.6
08/09/2006	Discussion Vaeth, Review of DRA and Consumer Federation Briefs	1.0
08/10/2006	Review of Energy Company Consolidated Brief	2.8
08/11/2006	First Draft Notes and Reply	1.3
08/13/2006	First Draft Outline	1.0
08/14/2006	Second Draft	2.6
08/15/2006	Second Draft	.7
08/16/2006	Third draft and revisions	4.5
08/17/2006	Final revisions and filing	.4
08/21/2006	Review of Holding co briefs by initiator DRA and Commissioner File	1.1
08/23/2006	Initial outline and reply brief	1.4
08/24/2006	First draft and second draft	4.2
08/25/2006	Third Draft to Vaeth and expert Phillips	1.6
09/18/2006	Research on new ex comp study meeting and follow-up on study	1.6
09/19/2006	Follow-up on research and memo (1.) meeting with expert (.7) and	3.3

	review of and email to ALJ re Ex level of participation (1.6)	
09/20/2006	Research and review of Joint Utility and other filings	2.3
09/22/2006	Discussion with Vaeth and update re workshop and review of Commissioner and ALJ actions	2.7
09/23/2006	Review of Commission and ALJ proposal	2.1
09/25/2006	Draft of post workshop comments	2.0
09/26/2006	Second Draft and Discussion with Vaeth	1.4
09/27/2006	Discussion Expert Phillips and Vaeth and Filing of Brief	.7
09/30/2006	Review of Edison Data Response and Draft of Greenlining Response	.6
10/02/2006	Discussions: Vaeth re additional information and next steps	.7
10/03/2006	Review of motion and additional research and preparation for meet and confer	1.2
10/04/2006	Meet and confer with PG&E counsel and preparation for Edison and Sempra meet and confer plus related filings and research	1.4
10/05/2006	Additional Filings Review and Research	1.2
10/06/2006	Email to ALJ, meet and confer with Edison re data, discussions with Kang and preparation re oral argument October 18th	1.4
10/10/2006	Review of Draft decision meet and confer with Sempra and Motion to Compel re additional data	3.5
10/11/2006	Meet with Expert Phillips preparation of rate payer and coalition info materials and preparation of comments due 10/31	2.8
10/13/2006	Meeting with Coalition members Lopez, Bautista, and Corralejo regarding update and next steps	.8
10/16/2006	Discussions with Vaeth re updated information for 10/18 hearing, plus research	2.5
10/17/2006	Preparation for 10/18 CPUC hearing	2.1
10/18/2006	Hearing (2.0), preparation En Banc Hearing (.7), and Preparation for comments due 10/30 (1.8)	4.5
10/19/2006	Comprehensive review of record, development of first and second draft of comments discussion with Vaeth	6.2
10/20/2006	Discussions: Vaeth, revisions of second draft	1.8
10/23/2006	Revisions of Second draft and securing of additional info	1.3
10/25/2006	Revisions and Third draft of opening comments plus discussion with Vaeth	3.1
10/30/2006	Review of Filed Comments by the Parties	.8
10/31/2006	Meeting with Expert Phillips	.6
11/02/2006	First Draft of Reply and Research	1.2
11/03/2006	Final reply	.4
11/05/2006	Research and Changes in Final Reply, discussion	1.3
11/06/2006	Discussion with Vaeth and filing of reply	.3
11/10/2006	Review of Holding company ruling	.2
11/21/2006	Updated research re executive comp and transparency	1.2
11/27/2006	Updated research and draft of letter to Commission taking official	1.4

	notice related executive comp info	
12/12/2006	Review of decision denying discovery	.1
02/20/2007	Review of December 20, 2006 decision	.8

Exhibit B

John Gamboa Hours
The Greenlining Institute
1918 University Ave., 2nd Floor
Berkeley, CA 94704

Case: R.05-10-030

Total hours: 1.9

Date	Explanation	Hours
11/03/2005	Discussions re: staff management	.7
4/11/2006	Update with staff re: proceeding status	.5
08/10/2006	Update re: progress of proceeding	.3
10/13/2006	Update re: <i>En Banc</i> hearing	.2
10/25/2006	Update re: filed comments	.2

Exhibit C

Chris Vaeth Hours
The Greenlining Institute
1918 University Ave., 2nd Floor
Berkeley, CA 94704

Case: R.05-10-030

Total hours: 41.25

Date	Explanation	Hours
11/07/2005	Discuss new opportunities in this case with Bob Gnaizda	1.0
12/13/2005	Draft comments	1.75
08/06/2006	Revise opening comments on proposed rules	3.25
08/07/2006	Revise and serve M. Phillips testimony	1.5
08/07/2006	Write notice of intent to request compensation	2.0
08/09/2006	Meeting with Bob Gnaizda re: reply comments	.5
8/17/2006	Draft and revise reply comments	2.0
8/25/2006	Meeting with Bob Gnaizda re: reply to utility response	.5
09/12/2006	Review draft rules	1.25
09/21/2006	Attend workshop in holding companies case	3.0
09/22/2006	Send data requests to Edison, PG&E, Sempra	1.5
09/26/2006	Discuss post-workshop comments with Bob Gnaizda	1.25
10/02/2006	Draft and mail meet & confer requests to utilities	1.5
10/09/2006	Draft motion to compel response of utilities	2.25
10/11/2006	Draft and fax press release re: CPUC draft decision	3.0
10/16/2006	Discuss oral arguments plan with Bob Gnaizda	2.5
10/18/2006	Attend oral arguments in holding companies case	2.0
10/19/2006	Discuss upcoming comments with Bob Gnaizda	2.0
10/26/2006	Draft reply to utility responses to motion to compel	2.0
10/26/2006	Revise draft of letter to ALJ Vieth	.75
10/27/2006	Review utility responses to comments	.75
10/27/2006	Revise and file comments on proposed decision	2.5
11/05/2006	Revise reply comments on proposed decision	1.75
11/07/2006	Meeting with Bob Gnaizda re: research update	.75

Exhibit D

Michael Phillips Hours
62 Stanton Street
San Francisco, CA 94114

Case: R.05-10-030

Total hours: 24.8

Date	Explanation	Hours
01/03/2006	Meeting with Greenlining Institute	1.0
04/13/2006	Read all related filings to proceeding	2.0
04/14/2006	Draft initial brief	1.0
05/11/2006	Review reply documents	3.0
05/15/2006	Prepare response	1.0
06/22/2006	Read relevant material	2.5
06/23/2006	Review literature and filings	3.0
06/24/2006	Draft questions	5.0
06/25/2006	Prepare summary and conference call	4.0
07/19/2006	Draft testimony	1.0
09/21/2006	Conference call re: filings	.5
10/10/2006	Meeting with Greenlining Institute on comments	.8

Exhibit E

Samuel Kang Hours
The Greenlining Institute
1918 University Ave., 2nd Floor
Berkeley, CA 94704

Case: R.05-10-030

Total hours: 21

Date	Explanation	Hours
10/27/2005	Read OIR	2.25
11/11/2005	Research re: executive compensation	6.25
11/14/2005	Research re: executive compensation	2.5
12/10/2005	Read and edit comments	1.0
10/10/2006	Read proposed decision	1.5
10/16/2006	Oral argument preparation	.5
10/18/2006	Oral argument	2.0
10/23/2006	Read Utility responses to Greenlining Institute's Motion to Compel	1.0
10/30/2006	Read comments filed on 10/30/06	.75
11/06/2006	Read reply comments filed on 11/6/06	1.25
11/17/2006	Read comments filed on 11/17/06	1.75
12/11/2006	Read ALJ ruling to deny Greenlining Institute's Motion to Compel	.25